

REMARKS

The Restriction Requirement mailed on September 28, 2007 has been reviewed. In order to comply with the restriction requirement, the Applicant elects Group II, claims 1-7. However, claim 8 has been amended such that Group I, claims 8-16, include all the limitations of claim 1. The Applicant, therefore, reserves the right to have claims 8-16 rejoined upon a finding that the product of claim 1 is allowable pursuant to MPEP § 821.04(b). However, in order to comply with the restriction requirement, claims 8-16 are hereby withdrawn. In addition, the Applicant reserves the right to later file continuation or divisional applications having claims directed to the non-elected invention

Additionally, in order to comply with the restriction requirement, the Applicant elects, **with traverse**, the species of Group III, Figs. 1-4. The Applicant respectfully asserts that the required restriction between Groups III and IV is improper. In particular, the Applicant asserts that claim 1 is generic to both Groups III and IV as each species requires all the limitations of claim 1 and claim 1 does not include any limitation not required by either species. Claim 1, therefore, meets the definition of a generic claim found in MPEP § 806.04(d). In support of this assertion, the Applicant directs the Examiner to page 15 line 19 – page 16 line 2 which reads “FIGS. 5-8 relate to a second preferred embodiment of the present invention, in which window apparatus 33 is provided with glazing unit 42 . Since most of the components of window apparatus 33 are identical to those of window apparatus 3, described hereinbefore with reference to FIGS. 1-4, fixed frame 37 , window pane assembly 39 and seal assembly 45 need not be described.” Accordingly, claim 1 includes a “window pane assembly,” “a seal assembly,” and “a fixed frame,” while claim 2 adds the limitation of a “glazing unit.” Furthermore, a separate field of search is not required since the Examiner is likely to perform a prior art search in the same field of search for each of Groups III and IV since each species requires the limitations of generic claim 1. Therefore, the Applicant respectfully requests that the requirement for election between Groups III and IV be withdrawn.

In order to comply with the restriction requirement, Applicant elects claims 1, 6, 7 which read on the species of Group III. The claims of the non-elected species Group IV,

claims 2-5, are hereby withdrawn. However, Applicant reserves the right to reintroduce the claims of Group IV, claims 2-5, in the event that the restriction requirement between Groups III and IV is withdrawn. In addition, Applicant reserves the right to have the claims of Group IV reinstated upon a finding that generic claim 1 is allowable pursuant to MPEP § 809.02(a). Applicant also reserves the right to later file continuation or divisional applications having claims directed to the non-elected invention.

CONCLUSION

Applicant respectfully submits that claims 1-16 are in condition for allowance and notification to that effect is earnestly requested. If necessary, please charge any additional fees or credit overpayments to Deposit Account No. 502432.

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 455-1680.

Respectfully submitted,

/David N. Fogg/

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